

## **REMARKS**

Reconsideration of this application as amended is respectfully requested.

Claims 1-30 are pending. Claims 1, 3, 25, 28 and 29 have been amended. Support for the amendments is found in the specification, the drawings, and in the claims as originally filed.

Applicant submits that the amendments do not add new matter.

### **Rejections Under 35 U.S.C. § 103(a)**

Claims 1-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ausubel, (U.S. Patent No. 6,026,383, hereinafter “Ausubel”) in view of Shoham, (U.S. Patent No. 6,285,989, hereinafter “Shoham”). Notwithstanding the following remarks, Applicant reserves the right to swear behind the Shoham patent.

Ausubel describes a system for conducting an auction, in which the auctioneer determines a starting price and announces it to the bidders. Each bidder responds with a bid indicating how many objects each wishes to purchase at the current price. If the total number of objects desired by all the bidders is greater than the number of objects which are available, the auctioneer determines whether any of the objects should be assigned to any bidders in this round. This is done by determining for each bidder, sequentially, whether the sum of the bids of all the other bidders is less than the number of objects available. Those objects are then assigned to that bidder, obligating that bidder to purchase them at the price standing at that time. If any objects remain available, the auctioneer announces a new price and the auction continues.

Contrary to the presently claimed invention, Ausubel does not teach or suggest determining participation of bidders from the first auction round in the second auction round, in accordance with the application of a rule to an occurrence in the first auction round. The Examiner acknowledges that “Ausubel does not disclose a second auction round including only bidders that were not awarded a contract in the first round or a second auction round that excludes non-leading bidders from the

first round” and cites Shoham for such teaching, contending it would be obvious to combine Shoham with Ausubel to produce the present invention. Applicant respectfully disagrees.

Ausubel discloses that “bidders are not allowed to increase their bids from round to round.” Thus, Ausubel at most teaches comparing bids of a bidder in different rounds, but not determining participation of first round bidders in a second auction round in accordance with the application of a rule to an occurrence in the first auction round, as claimed in the present invention.

Shoham teaches rules for administering a market that specify “minimum accepted bids, bidding increments and length of round.” However, similarly to Ausubel, Shoham does not teach or suggest determining participation of first round bidders in a second auction round in accordance with the application of a rule to an occurrence in the first auction round, as claimed in the present invention. Hence, Shoham lacks the same features of the present invention that are missing from Ausubel. Specifically, Ausubel and Shoham, taken alone or in combination, lack the pertinent features of the present invention that are included in the following language of claim 1:

- ... creating a rule for a second auction round based on user input, the rule limiting participation of bidders in the second auction round based on an occurrence in a first auction round;
- conducting the first auction round having a first set of bidders;
- determining participation of bidders from the first set of bidders in the second auction round, in accordance with an application of the rule to the occurrence in the first auction round; and
- conducting the second auction round based on the determined participation.

Similar language is included in claims 3, 25, 28 and 29. Accordingly, the present invention as claimed in claims 1, 3, 25, 28 and 29, and their corresponding dependent claims, is patentable over the cited references.

With respect to claim 15, Ausubel and Shoham, taken alone or in combination, do not teach or suggest conducting a second auction round including only bidders that were not awarded a contract in the first auction round. Thus, the present invention as claimed in claim 15 and its corresponding dependent claims is patentable over the cited references.

With respect to claim 21, Ausubel and Shoham, taken alone or in combination, do not teach or suggest conducting a second auction round that excludes non-leading bidders from the first auction round. Thus, the present invention as claimed in claim 21 and its corresponding dependent claims is patentable over the cited references.

In view of the above, Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. §103(a). Applicant furthermore submits that all pending claims are in condition for allowance, which action is earnestly solicited.

**Deposit Account Authorization**

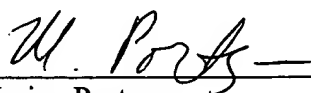
Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

Respectfully submitted,

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